IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 470 OF 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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AHMEDABAD MUNICIPAL TRANSPORT SERVICE & ORS. -Appellants
Versus
MANHARLAL MANSUKHLAL SHAH & ANR. - Respondent(s)

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Appearance :
Shri Nikhil Kariel for M/s. Tanna Associates for Appellant Nos.1-3.
Smt. Sangeeta Pahwa for Respondent Nos.1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 18/06/2007

ORAL JUDGMENT

The appellants, being aggrieved by the judgement and award dated 30th April, 1988 passed by the learned Member, Motor

Accident Claims Tribunal (Auxiliary), Narol, Ahmedabad in M.A.C. Case No.71 of 1987 awarding a sum of Rs.1,54,000/- in favour of the dependants of the deceased, have filed this appeal for reduction of the amount.

2. The case of the claimants in brief was that on 18th August, 1986 at about 8:00 p.m., the original opponent No.1, namely, Ramchandra Bala Marathi, was driving the bus belonging to Ahmedabad Municipal Transport Service bearing Registration No. GTE-5100 in a rash and negligent manner. The deceased was travelling in the said bus. The bus did not stop at the notified stop, but, because of its speed, it could only be stopped at a distance of 60 to 70 ft. from the stop. The deceased, who was alighting from the bus, when was in the process, the driver on a ring of the conductor started the bus with a jolt, which resulted into fall of the deceased from the bus and as a result of the fall, the deceased suffered injuries and ultimately died.

2.1 The claimants submitted before the Court that the deceased was nineteen years of age and was earning Rs.1,000/- per month and was contributing a handsome amount to the family. They prayed for a sum of Rs.2,00,000/- as compensation.

2.2 The opponents filed their reply and raised various

objections. It was contended that all the legal representatives of the deceased were not joined; the deceased was not earning a sum of Rs.1,000/-; in fact, no incident had taken place.

2.3 The learned Tribunal, after casting the issues, afforded appropriate opportunity of leading evidence to the parties. After hearing the parties, it held the dependency to be Rs.600/- per month or Rs.7,200/- per year and applying the multiplier of twenty, it awarded a sum of Rs.1,44,000/- towards compensation against the death and also awarded a sum of Rs.10,000/- towards loss of company, expectancy of life, etc.

3. From the evidence available on the record, it clearly appears that the boy was alighting from the bus and he suddenly fell from the bus. Ordinarily, a young boy of 19 years age if falls from the stationary bus, then, he would not suffer any fatal injuries. In the present case, the nature of injury, supported by the evidence and other witnesses, would clearly show that the driver was negligent in driving the bus. He started the bus and plied with a jolt, which resulted into fall of the deceased. The deceased had suffered various injuries and unfortunately, the injuries proved fatal. On the question of liability and responsibility of the present appellants, I am unable to hold in favour of the appellants.

4. The learned Counsel for the appellants submitted that the learned Tribunal below was absolutely unjustified in applying the multiplier of twenty because from the judgement of the Supreme Court, it is clear that the multiplier at the best on the higher side could be eighteen.

5. Contending contrary to this submission, Smt. Pahwa, learned Counsel for the claimants, submits that application of the multiplier of twenty was justified and the learned Tribunal below was unjustified in holding that the future income of the deceased would be Rs.1,000/- per month. She submits that the future income could be assessed at Rs.2,400/- and the multiplier of twenty has been rightly applied.

6. From the records, it would appear that the deceased was earning a sum of Rs.1,000/- at the age of 19/20 years. When a young person, at the initial stage of the career, starts earning, then, unless contrary is proved or some evidence is brought on the record by the other side to prove that his future prospects were not bright, the Court would be justified in holding that with the time-lag and growth in the economy, the future prospects of a young boy would rather come out shining. In the present case, the Court below, in the opinion of this Court, did not consider all future prospects in their true perspective. If a

young boy is earning a sum of Rs.1,000/- at the age of 19 years, then, after developing his own business, he could have earned more. His future prospects could not be curtailed down below Rs.2,100/-. I, accordingly, so hold. Out of the sum of Rs.2,100/-, the said deceased could have contributed at least 1/3rd of his earning to the family and the monthly dependency, in the opinion of this Court, would be Rs.700/- per month and/or Rs.8,400/- per year. I will agree with the learned Counsel for the respondents that the learned Tribunal below was unjustified in holding that the monthly dependency could be Rs.600/- only. At the same time, I will have to agree with the learned Counsel for the appellants and hold that the learned Tribunal, contrary to the settled principles of law, erred in applying the multiplier of twenty. Ordinarily, unless exceptional circumstances are brought on the record, the multiplier in the case of death of a person at the age of 19 – 20 could not be more than eighteen. I, accordingly, hold that the multiplier of eighteen could only be applied, which would result into Rs.1,51,200/-. The learned Tribunal below has awarded a sum of Rs.1,54,000/-, which, in the opinion of this Court, for the reasons aforesaid, is just and proper compensation. So far as the award of Rs.10,000/- towards expectancy of life and loss of company are concerned, I do not think that there is any scope for reduction.

7. The appeal deserves to and is, accordingly, dismissed.

[R.S.Garg, J.]

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